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Attorneys for Plaintiff
Daphne L. Smith

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

15	DAPHNE L. SMITH,)	Case No.: 2:24-cv-00278-BNW
16	Plaintiff,)	
17	vs.)	STIPULATION AND PROPOSED
18	MARTIN O'MALLEY,)	ORDER FOR THE AWARD AND
19	Commissioner of Social Security,)	PAYMENT OF ATTORNEY FEES
20	Defendant.)	AND EXPENSES PURSUANT TO
)	THE EQUAL ACCESS TO JUSTICE
)	ACT, 28 U.S.C. § 2412(d) AND
)	COSTS PURSUANT TO 28 U.S.C. §
)	1920

TO THE HONORABLE BRENDA WEKSLER, MAGISTRATE JUDGE
OF THE DISTRICT COURT:

IT IS HEREBY STIPULATED, by and between the parties through their
undersigned counsel, subject to the approval of the Court, that Daphne L. Smith
("Smith") be awarded attorney fees in the amount of SEVENTY FIVE HUNDRED

1 dollars (\$7,500.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. §
2 2412(d), and no costs in the amount of under 28 U.S.C. § 1920. This amount
3 represents compensation for all legal services rendered on behalf of Plaintiff by
4 counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920;
5 2412(d).

6 After the Court issues an order for EAJA fees to Smith, the government will
7 consider the matter of Smith's assignment of EAJA fees to Marc Kalagian. The
8 retainer agreement containing the assignment is attached as exhibit 1. Pursuant to
9 *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), the ability to honor the assignment
10 will depend on whether the fees are subject to any offset allowed under the United
11 States Department of the Treasury's Offset Program. After the order for EAJA fees
12 is entered, the government will determine whether they are subject to any offset.

13 Fees shall be made payable to Smith, but if the Department of the Treasury
14 determines that Smith does not owe a federal debt, then the government shall cause
15 the payment of fees, expenses and costs to be made directly to Law Offices of
16 Lawrence D. Rohlfing, Inc., CPC, pursuant to the assignment executed by Smith.¹
17 Any payments made shall be delivered to Law Offices of Lawrence D. Rohlfing,
18 Inc., CPC. Counsel agrees that any payment of costs may be made either by
19 electronic fund transfer (ETF) or by check.

20 This stipulation constitutes a compromise settlement of Smith's request for
21 EAJA attorney fees, and does not constitute an admission of liability on the part of
22 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
23 constitute a complete release from, and bar to, any and all claims that Smith and/or
24

25 ¹ The parties do not stipulate whether counsel for the plaintiff has a cognizable lien
26 under federal law against the recovery of EAJA fees that survives the Treasury
Offset Program.

Marc Kalagian including Law Offices of Lawrence D. Rohlfig, Inc., CPC, may have relating to EAJA attorney fees in connection with this action.

This award is without prejudice to the rights of Marc Kalagian and/or the Law Offices of Lawrence D. Rohlfig, Inc., CPC, to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

DATE: October 9, 2024 Respectfully submitted,

LAW OFFICES OF LAWRENCE D. ROHLFING, INC., CPC

/s/ Marc V. Kalagian

BY:

Marc V. Kalagian
Attorney for plaintiff
DAPHNE L. SMITH

DATE: October 9, 2024

JASON M. FRIERSON
United States Attorney

/s/ Lars J. Nelson

LARS J. NELSON
Special Assistant United States Attorney
Attorneys for Defendant
MARTIN O'MALLEY, Commissioner of Social
Security (Per e-mail authorization)

ORDER

Approved and so ordered:

DATE: October 10, 2024


THE HONORABLE BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

DECLARATION OF MARC V. KALAGIAN

I, Marc V. Kalagian, declare as follows:

1. I am an attorney at law duly admitted to practice before this Court in this case. I represent Daphne L. Smith in this action. I make this declaration of my own knowledge and belief.
2. I attach as exhibit 1 a true and correct copy of the retainer agreement with Daphne L. Smith containing an assignment of the EAJA fees.
3. I attach as exhibit 2 a true and correct copy of the itemization of time in this matter.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this October 9, 2024, at Santa Fe Springs, California.

/s/ Marc V. Kalagian

Marc V. Kalagian

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 12631 East Imperial Highway, Suite C-115, Santa Fe Springs, California 90670.

On this day of October 9, 2024, I served the foregoing document described as STIPULATION FOR THE AWARD AND PAYMENT OF ATTORNEY FEES AND EXPENSES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d) AND COSTS PURSUANT TO 28 U.S.C. § 1920 on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Ms. Daphne L. Smith
6310 Explorer Dr.
Las Vegas, NV 89103

I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Santa Fe Springs, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

I declare that I am employed in the office of a member of this court at whose direction the service was made.

Marc V. Kalagian
TYPE OR PRINT NAME

/s/ Marc V. Kalagian
SIGNATURE

**CERTIFICATE OF SERVICE
FOR CASE NUMBER 2:24-CV-00278-BNW**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for this court by using the CM/ECF system on October 9, 2024.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system, except the plaintiff served herewith by mail.

/s/ Marc V. Kalagian

Marc V. Kalagian
Attorneys for Plaintiff